

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

STAR TECHNOLOGIES LIMITED
LIABILITY COMPANY,

PLAINTIFF,

v.

TREMCO INCORPORATED,

DEFENDANT.

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Civil Action No. 3:22-cv-00333

JURY TRIAL DEMANDED

ELECTRONICALLY FILED

NOTICE OF REMOVAL

NOW COMES Defendant, Tremco Incorporated (“Tremco”), by and through its undersigned attorneys, and files this Notice of Removal to remove Civil Action No. 22-C-214 in the Circuit Court of Cabell County, West Virginia (the “State Court Action”) to the United States District Court for the Southern District of West Virginia, pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446(a), and in support thereof states as follows:

1. On or about June 15, 2022, Plaintiff, Star Technologies Limited Liability Company (“Star Technologies”), commenced this action via Complaint in the Circuit Court of Cabell County, West Virginia at Civil Action No. 22-C-214. A true and correct copy of Plaintiff’s Complaint is appended hereto as **Exhibit A**.

2. Tremco was served with Plaintiff’s Complaint on July 12, 2022, via service upon its registered agent, the Secretary of State of West Virginia. *See* Secretary of State service page of Exhibit A.

3. Pursuant to 28 U.S.C. § 1446(a), certified or attested copies of all records and docket entries which were filed in the State Court Action are attached hereto as **Exhibit B**.

4. Plaintiff’s Complaint presents claims sounding in breach of contract, breaches of

express and implied warranties and fraud, allegedly arising from a roof restoration project performed by Tremco on Plaintiff's building at 2400 Fourth Avenue, Huntington, West Virginia (the "Building"). (See Exhibit A.)

5. There exists complete diversity of citizenship between Plaintiff and Tremco:

- a. Plaintiff, Star Technologies, is a limited liability company organized and existing under the laws of the State of West Virginia, which maintains its principal place of business at 2400 4th Avenue, Huntington, West Virginia 25703. Star Technologies' organizer and sole member is Richard P. Houvouras, an individual residing at 1202 South Park Drive, Huntington, West Virginia 25701. **Star Technologies, thus, is a citizen of West Virginia.**¹
- b. Tremco is a corporation organized and existing under the laws of the State of Ohio, which maintains its principal place of business at 3735 Green Road, Beachwood, Ohio 44122. **Tremco, thus, is a citizen of Ohio.**

6. It is believed this action concerns an amount in controversy exceeding the sum or value of \$75,000.00, exclusive of interest and cost. Specifically, and per the Complaint, Plaintiff represents it is seeking damages for: (1) the cost to repair the roof of the Building (the restoration work was in the amount of \$52,875.00); (2) the cost to replace the roof of the building; (3) business interruption damages; (4) "annoyance and inconvenience;" and (5) expert, attorney and litigation expenses. A purported third-party examination prepared for Plaintiff at the request of Plaintiff's counsel and provided to Tremco's in-house counsel alleges roof replacement costs ranging from \$168,000.00 – \$288,000.00. Moreover, Plaintiff's counsel indicated to Tremco's in-house counsel that potential damages to contents of the building, namely CNC production equipment, could reach up to \$695,000.00.

7. Given the foregoing, and as evidenced by the Affidavit of counsel for Defendants (attached hereto as **Exhibit D**), Tremco reasonably believes this action concerns an amount in

¹ A true and correct copy of Star Technologies' Business Entity Details, as maintained by the West Virginia Secretary of State, is appended hereto as **Exhibit C**.

controversy exceeding this Court's jurisdictional threshold.

8. This Notice of Removal is timely filed within thirty (30) days of the service of Plaintiff's Complaint upon Tremco, which constituted the initial pleading setting forth a claim for relief upon which this action is based.

9. This action, thus, is one over which the District Courts of the United States possess original jurisdiction pursuant to 28 U.S.C. § 1332(a): there exists complete diversity of citizenship between Plaintiff and Tremco, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and cost.

10. Written notice of the filing of this Notice of Removal will be promptly served upon counsel for Plaintiff after the filing of the same with the United States District Court for the Southern District of West Virginia, as required by law.

11. Additionally, a true and correct copy of this Notice of Removal will be filed with the Circuit Court of Cabell County, West Virginia promptly after the filing of this Notice with the United States District Court for the Southern District of West Virginia, as required by law.

12. By filing this Notice of Removal, Tremco does not waive any defense which may be available to it, and Tremco demands a jury trial in this action.

WHEREFORE, Defendant, Tremco Incorporated, respectfully requests this Honorable Court assume subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1332 and 1441 *et seq.*

Respectfully submitted by,

DICKIE, McCAMEY & CHILCOTE, P.C.

/s/ Vaughn K. Schultz

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CERTIFICATE OF SERVICE

I, Vaughn K. Schultz, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on this 10th day of August, 2022, by First Class U.S. Mail, postage prepaid, upon the following:

Randall L. Trautwein, Esquire
Jill E. Landsden, Esquire
Jarod J. Jordan, Esquire
Burns White LLC
702 Fourth Avenue
Huntington, WV 25701
Attorneys for Plaintiff

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/s/ Vaughn K. Schultz

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